IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Farwick, *et al.*

Appl. No.: 09/755,187

Filed: January 8, 2001

For: **New Nucleotide Sequences
       Encoding the ptsH**

Art Unit: 1652

Examiner: C. Fronda

·Atty. Dkt.: 21123/275573

Response to Restriction Requirement

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated January 18, 2002, in which the Examiner imposed a restriction requirement on the claims in the above-captioned application, Applicants hereby elect the inventions of restriction Group I. This includes claims 1-7 directed to an isolated polynucleotide, a vector and a coryneform bacterium containing the vector. It is respectfully requested that the claims in the non-elected restriction groups be cancelled without prejudice.

This election is made with traverse.

Applicants respectfully submit that the number of restriction groups in this case is excessive. Groups II-IV are related by the fact that they all involve processes in which the gene coding for component H of the phosphotransferase system is enhanced. If the gene itself is patentable (claims of restriction Group I) then all of the claims in these other groups should be patentable as well (at least with respect to prior art considerations). The claims in restriction groups V and VI are all clearly dependent upon the unique sequence of the ptsH gene (again the claims in restriction Group I) and are not concerned with new generalized techniques in molecular biology as placing them in separate groups would suggest. In light of these considerations, Applicants submit that it is unreasonable to require the payment of six

filing fees to prosecute these claims and respectfully request that the present division of restriction groups be reconsidered and reduced.

Applicants do not believe that any fee is required for the filing of the present document. Nevertheless, if one or more extensions of time are required to prevent the application from going abandoned, then such extensions of time are hereby petitioned and any fees therefor may be charged to our Deposit Account No. 03-3975, under Order No. 21123/275573.

If the Examiner believes that a phone call may help to expedite this matter, the Examiner is invited to call Applicants' undersigned attorney at (703) 905-2173.

Respectfully submitted,

PILLSBURY WINTHROP LLP

By: *Michael A. Sanzo*
Michael A. Sanzo
Reg. No. 36,912
Attorneys for Applicants

Date: *February 15*, 2002
1600 Tysons Boulevard
McLean, VA 22120
Tel. (703) 905-2173

MAS/amx

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE   <u>PATENT APPLICATION</u>

Group Art Unit   4866

Inventor(s):   Farwick et al.   Examiner: Fronda, C. L.
Appln. No.:   09 | 755,187   Atty. Dkt.   P | 275573 | 990219 BT
            Series Code ↑   Serial No. ↑   M#   Client Ref
Filed: January 8, 2001   Appln. Title: NEW NUCLEOTIDE SEQUENCES
Hon. Commissioner of Patents   ENCODING THE ptsH GENE
Washington, D.C. 20231

Sir:

<u>REPLY/AMENDMENT/LETTER</u>   Date: February 15, 2002
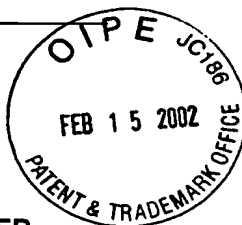
This is a reply/amendment/letter in the above-identified application and includes the herewith attachment of same date and subject which is incorporated hereinto by reference and the signature below is treated as the signature to the attachment in absence of a signature thereto.

<u>FEE REQUIREMENTS FOR CLAIMS AS AMENDED</u>

1. Small Entity claim
A. ☒ <u>NOT</u> made   For B & C
B. ☐ Withdrawn   See <u>Required</u>
C. ☐ made herewith   <u>Separate</u> Paper
D. ☐ made previously   (Pat-256)

	Claims remaining after amendment	Highest number previously paid for		Present Extra	Large/Small Entity	Additional Fee	Fee Code Lg/Sm
2. Total Effective Claims	6	**minus	20	0	x $18/$9 =	+ $0	103/203
3. Independent Claims	1	***minus	3	0	x $84/$42 =	+ $0	102/202
4. If amendment enters <u>proper</u> multiple dependent claim(s) into this application for <u>first</u> time (leave <u>blank</u> if this is a <u>reissue</u> application) .... add					+ $280/$140 =	+ $0	104/204
5. Original due Date: February 18, 2002	☐ NONE						
6. **Petition is hereby made** to extend the original due date to cover the date this response is filed for which the requisite fee is attached (1 mo) (2 mos) (3 mos) (Usable <u>only</u> for ≤ 2mo.OA - - - 4 mos) (Usable <u>only</u> for 30 day/1mo.OA - - - 5 mos)				$110/$55 = $400/$200 = $920/$460 = $1,440/$720= $1,960/$980=	+ $0		115/215 116/216 117/217 118/218 128/228
7. Enter any previous extension fee <u>paid</u> since above <u>original</u> due date and <u>subtract</u>				- $0			
8.				**Extension Fee Attached**		+ $0	
9. If **Terminal Disclaimer** attached, <u>add</u> Rule 20(d) official fee				+ $110/$55		+ $0	148/248
10. If IDS attached requires Official Fee under Rule 97 (c), ... add or if Rule 97(d) Request .... add				+ $180 + $180		+ $0	126 126
11. After-Final Request Fee per rules 129(a) and 17(r)				+ $740/370		+ $0	146/246
12. No. of additional inventions for examination per Rule 129(b)......................				x $740/370 ea		+ $0	149/249
13. Request for Continued Examination (RCE)				+ $740/370		+ $0	1179/1279
14. Petition fee for						+ $0	
15.				**TOTAL FEE ENCLOSED =**		$0	

16. *If the entry in this space is less than entry in next space, the "Present Extra" result is "0".
17. **If the "Highest number previously paid for" in this space is less than 20, write "20" in this space.
18. ***If the "Highest number previously paid for" in this space is less than 3, write "3" in this space.

Our Deposit Account No. 03-3975)
(Our Order No.   21123 | 275573
                   C#   M#

<u>CHARGE STATEMENT</u>: The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (<u>missing or insufficiencies only</u>) now or hereafter relative to this application and the resulting Official Document under Rule 20, or credit any overpayment, to our Accounting/Order Nos. shown above, for which purpose a <u>duplicate</u> copy of this sheet is attached.
This CHARGE STATEMENT <u>does not authorize</u> charge of the <u>issue fee</u> until/unless an issue fee transmittal sheet is filed.

Query: Is appeal deadline now? If so, file Notice of Appeals separately.

Pillsbury Winthrop LLP
Intellectual Property Group
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McLean, VA 22102
Tel: (703) 905-2000   Sig: _Michael A. Sanzo_   Fax: (703) 905-2500
                                                                 Tel: **(703) 905-2173**
Atty/Sec: MAS/AMX

NOTE: File this cover sheet in duplicate with PTO receipt (PAT-103A) and attachments